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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

_____	)	
In re:	)	Case No.: 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL, LLC, et al.	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
	)	
_____	)	

**APPELLANT BARRY F. MACK'S AMENDED STATEMENT OF ISSUES ON APPEAL  
AND DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

COMES NOW the Appellant, BARRY F. MACK, by and through the undersigned attorney, pursuant to Fed. R. Bankr. P. 8009, respectfully submits this statement of issues to be presented on appeal and designation of items to be included in the record on appeal, as follows:

**I. STATEMENT OF ISSUES PRESENTED**

A. Whether the portion of Proof of Claim No. 386 of Barry and Cheryl Mack against GMAC Mortgage, LLC alleging wrongful and malicious prosecution should have been dismissed on the grounds of res judicata by the court in its opinion of July 24, 2014 (ECF No. 7297 – 7/24/14 Memorandum Opinion Sustaining in Part an Overruling in Party Objection to Proof of Claim No. 386).

B. Whether the Court, in considering the remainder of Proof of Claim No. 386 of Barry and Cheryl Mack alleging a violation of 12 U.S.C. §2605(e) (RESPA), should have relied on the opinion of *Roth v. Citimortgage, Inc.*, 756 F.3d 178 (2d Cir. 2014) to find that Appellant MACK's letter of October 26, 2009 was a Qualified Written Request pursuant to 12 U.S.C. §2605(e) (RESPA) since it was sent to an address for QWRs other than listed on the monthly mortgage statements the Macks received in November 2009, and prior to the letter of October 26, 2009 (ECF No. 8969 – 8/4/15 Memorandum Opinion and Order Sustaining the RESCAP Borrower Claims Trust's Objection to Proof of Claim No. 386 filed by Barry and Cheryl Mack).

## II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

Designation No.	Date	ECF No.	Description
1	8/4/15	8969	Memorandum Opinion and Order Sustaining the RESCAP Borrower Claims Trust's Objection to Proof of Claim No. 386 filed by Barry and Cheryl Mack.
2	7/13/15	8884	Creditor Barry Mack's Final Argument
3	7/13/15	8880	RESCAP Borrower Claims Trust's Post-Trial Brief in Support of the Trust's Objection to Proof of Claim No. 386 filed by Barry and Cheryl Mack
4	6/10/15	8743	Joint Pretrial Order
5	6/18/15	8765	Declaration of Adam A. Lewis re: Supplemental Information Requested by the Court in Connection with the RESCAP Borrower Claims Trust's Objection to Proof Of Claim No. 386 Filed By Barry And Cheryl Mack
6	6/18/15	8769	Declaration of David Cunningham re: Supplemental Information Requested by the Court in Connection with the RESCAP Borrower Claims Trust's Objection to Proof of Claim No. 386 filed by Barry and Cheryl Mack
7	5/27/15	8657	RESCAP Borrower Claims Trust's Pretrial Memorandum Brief in support of the Trust's Objection to Proof of Claim No. 386 filed by Barry and Cheryl Mack
8	5/27/15	8659	Creditor Barry Mack's Pretrial Memorandum
9	2/20/15	8162	Joint Pretrial Order
10	7/24/14	7297	Memorandum Opinion and Order Sustaining in Part and Overruling in Part Objection to Proof of Claim No. 386
11	6/30/14	7205	RESCAP Borrower Claims Trust's Supplemental Reply Brief in support of the Trust's Objection to Proof of Claim No. 386 filed by Barry and Cheryl Mack

12	6/16/14	7118	RESCAP Borrower Claims Trust's Supplemental Brief in Support of the Trust's Objection to Proof of Claim No. 386 filed by Barry and Cheryl Mack
13	6/16/14	7112	Claimant Barry Mack's Memorandum of Law Regarding Damages under RESPA (12 U.S.C. § 2601, et seq.) and Sufficiency of Proofs of Claim
14	5/12/14	6893	RESCAP Borrower Claims Trust's Reply to Claimant Barry Mack's Reply to the Trust's Objection to Proof of Claim No. 386 filed by Barry and Cheryl Mack
15	4/29/14	6834	Creditor Barry Mack's Response to RESCAP Borrower Claims Trust's Objection to Proof of Claim No. 386 filed by Barry and Cheryl Mack
16	4/9/14	6763	Notice of the RESCAP Borrower Claims Trust's Objection to Proof of Claim No.: 386 filed by Barry and Cheryl Mack

### III. TRANSCRIPT

The transcript of proceedings is found at ECF No. 8756 which is restricted from public view until September 9, 2015 and ECF No.: 8757 which is restricted from public view until September 14, 2015, and are to be included in the record on appeal.

Dated: August 27, 2015.

/s/ David F. Garber

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